

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7480 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DINESH SANGRAMBHAI RABARI

Versus

DISTRICT MAGISTRATE

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Appearance:

MR VIJAY H PATEL for Petitioner

MR NIGAM SHUKLA, A.G.P. for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 16/10/96

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 19th April, 1996 passed by the District Magistrate, Bhavnagar, detaining the petitioner under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on the same day i.e. 19th April, 1996 and since then the petitioner is under detention lodged at Bhuj

Jail, Bhuj.

This Special Civil Application was filed on 3rd September, 1996 and on 4th October, 1996 rule returnable within two weeks was issued. So far neither any reply has been filed nor the affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that two criminal cases were registered against petitioner for various offences under the Indian Penal Code. In one of the cases, the police investigation was going on and the other matter was going on in the Court. On account of the criminal activities of the petitioner in demanding haffthas, beating innocent persons, extorting money from the people of the locality etc., the detaining authority has satisfied himself that the petitioner was a dangerous person and was engaged in antisocial activities and accordingly the detention order was passed.

Although the detention order has been challenged on more than one grounds, the learned Counsel for the petitioner has submitted that the last criminal case was registered against the petitioner on 23rd January, 1996. The contention raised on behalf of the learned Counsel for the petitioner is that the detention order was passed on 19th April, 1996, after a period of more than three months from the date of registration of the last offence. Even the statements of witnesses wherein they have deposed against the petitioner were recorded on 27th February, 1996 but the detention order was passed on 19th April, 1996. The argument of the learned Counsel for the petitioner is that the delay over a period of more than three months in passing the detention order has not been explained by the respondents, and therefore, the detention order deserves to be set aside on this ground alone. The allegations with regard to delay in passing the detention order from the date of registration of the last offence or even from the date on which the statements were recorded have not been controverted by the respondents by filing any reply or affidavit and thus this delay remains unexplained and I find that the detention order deserves to be set aside on this ground alone.

Accordingly, this Special Civil Application is allowed. The impugned detention order dated 19th April, 1996 passed by the District Magistrate, Bhavnagar, is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are

directed to release the petitioner and set him at liberty  
forthwith, if not required in any other case. Rule is  
made absolute.

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